

REPLY UNDER 37 CFR §1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER 2476

SECTION II—REMARKS

Applicants respectfully request reconsideration of the above referenced patent application for the following reasons:

Allowable subject matter

Applicants acknowledge that claims 11, 14, 18, 21 and 22 are allowed.

Claims rejected under 35 U.S.C. § 101

The Office Action rejected claims 1-3, 6-10, 24 and 28-30 under 35 U.S.C. § 101 as being directed toward “non-statutory subject matter.”

Claim 1:

With respect to independent claim 1 specifically, the present Office Action states that although claim 1 recites a “processor readable medium,” the Office Action nevertheless interprets the claim “as covering both non-statutory subject matter and statutory subject matter” under 35 U.S.C. § 101 asserting that such a claim could be interpreted to “cover[] forms of non-transitory tangible medium **and transitory propagating signals per se**”

It appears as though the present rejection is based on improperly reading limitations of the Specification into Applicants’ claims, which is contrary to the express guidance set forth under M.P.E.P. § 2111.01(II). For example, the Office Action specifically makes reference to Applicants’ specification at page 7 in support of its rejection as disclosing “logic” which the Office Action contends is sufficient to support the above rejection.

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The Office Action does however, provide the helpful recommendation that Applicants “avoid a rejection under 35 U.S.C. § 101 by **adding the limitation ‘non-transitory’ to the claim.**” Refer to the present Office Action at page 3, second paragraph.

In the interests of advancing prosecution toward as expeditious of an allowance as feasible, Applicants have introduced the unnecessary, but clarifying limitation, “non-transitory” prior to the term, “processor readable medium,” so as to make express that Applicants’ claimed embodiment is directed toward patentable subject matter under 35 U.S.C. § 101. Those claims which depend upon independent claim 1 have been amended herein to recite a similar limitation.

Accordingly, Applicants respectfully submit that the amendments to the claims overcome the present rejection and thus, request the Examiner to withdraw the rejection to the claims under 35 U.S.C. §101.

Claim 24:

With respect to independent claim 24, the present Office Action states that although the claim recites a “memory,” the Office Action nevertheless contends that a “memory” could be interpreted, again in view of page 7 of Applicants’ specification, as an “associator,” or a “data structure,” or a “pointer,” each of which the Office Action contends are “software only, thus making the ‘system’ claim non-statutory in light of the specification page 7.” Refer to the Office Action at page 4, second paragraph.

Again, in the interests of advancing prosecution toward as expeditious of an allowance as feasible, Applicants have introduced the clarifying limitation “physical memory” into independent claim 24.

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Such a limitation makes expressly clear that Applicants' claimed embodiment is directed toward patentable subject matter under 35 U.S.C. § 101.

The term "physical memory" is supported by Applicants' specification at, for example, page 7, third paragraph, which teaches:

The term "memory" refers to any **processor-readable physical or logical medium**, including but not limited to RAM, ROM, EPROM, PROM, EEPROM, disk, floppy disk, hard disk, CD-ROM, DVD, queue, FIFO or the like, or any combination of two or more of the foregoing, on which may be stored one or more instructions or commands executable by a processor, data, or packets in whole or in part.

Accordingly, Applicants submit that the amendment to the claim overcomes the present rejection. Those claims which depend directly or indirectly upon independent claim 24 incorporate the limitations of independent claim 24, and thus, are directed toward patentable subject matter under 35 U.S.C. § 101 for at least the same reasons.

Accordingly, Applicants respectfully request the Examiner to withdraw the rejection to the claims under 35 U.S.C. §101.

Entry of amendments after Final Rejection:

Applicants respectfully submit that the entry of the above noted clarifying amendments after Final Rejection is appropriate in accordance with M.P.E.P. § 714.13(II) which states that amendments after final may be entered:

... **where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner,** compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection.

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More particularly, Applicants respectfully submit that entry of the clarifying limitations “non-transitory” and “physical” represent an adoption of the Examiners’ suggestions set forth in the Office Action so as to place the case in immediate condition for allowance and should require “only a cursory review by the examiner,” in accordance with M.P.E.P. § 714.13(II) in confirming the allowability of all claims now pending in the application.

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CONCLUSION

Given the above remarks, all claims pending in the application are in condition for allowance. If there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (503) 439-8778.

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully Submitted,

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Date

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